UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 MAR -4 AM 9:38

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| **UNITED STATES OF AMERICA,** | ) | Magistrate Docket No. |
| Plaintiff, | ) | '08 MJ 0655 |
| v. | ) | COMPLAINT FOR VIOLATION OF: |
| **Gumercindo GONZALEZ-Bastida,** | ) | Title 8, U.S.C., Section 1326 Attempted Entry After Deportation |
| Defendant | ) | |

The undersigned complainant, being duly sworn, states:

On or about **March 3, 2008** within the Southern District of California, defendant, **Gumercindo GONZALEZ-Bastida,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose, i.e. conscious desire, to enter the United States at or near the Tecate, California Port of Entry, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **4th DAY**of **MARCH 2008**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**
**Gumercindo GONZALEZ-Bastida**

## PROBABLE CAUSE STATEMENT

On March 3, 2008, Border Patrol Agent I. Isaia was performing line watch duties in an area known as Bell Valley. This area is approximately three hundred yards north of the United States/Mexico International Boundary and five miles east of the Tecate, California Port of Entry. At approximately 5:40 a.m., Agent Isaia responded to a sensor activation. Upon arrival to the area, Agent Isaia saw footprints leading north towards some bushes. Agent Isaia followed the footprints for approximately forty yards where he found eight individuals attempting to conceal themselves in the brush.

Agent Isaia approached the individuals and identified himself as a United States Border Patrol Agent and questioned each individual as to their citizenship and nationality. All eight, including one later identified as defendant, **Gumercindo GONZALEZ-Bastida**, freely admitted to being citizens and nationals of Mexico without any documents allowing them to enter or remain in the United States legally. All eight were arrested and transported to the Tecate, California Processing Center

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 13, 2006** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United Sates. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. He stated his intended destination was San Bernardino, California.